

# State of Wisconsin \ Government Accountability Board

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**DATE:** March 7, 2012 (Version 2)

**TO:** Wisconsin Municipal Clerks  
City of Milwaukee Election Commission  
Wisconsin County Clerks  
Milwaukee County Election Commission

**FROM:** Nathaniel E. Robinson  
Election Division Administrator  
Government Accountability Board

**SUBJECT:** Injunction Regarding Wisconsin Act 23 - Voter Photo Identification Legislation  
Impact of the Dane County Circuit Court Ruling  
Only Items in ***Bold/Italics*** are Enjoined by Court Order

On Tuesday afternoon, March 6, 2012, Dane County Circuit Court Judge David Flanagan ordered the Government Accountability Board to “cease immediately any effort to enforce or implement the photo identification requirements of 2011 Wisconsin Act 23, pending trial of this case and further order of the court.”

Until further notice, we are taking all necessary and required steps to suspend enforcement and implementation of the Voter Photo ID provisions of Wisconsin Act 23. The purpose of this communication is to share our initial interpretation with Local Election Officials and election administration partners, and the general public, our customers, of the ruling and its impact.

Note that only the following Wisconsin Act 23 provisions that are in ***Bold/Italics*** are the ones that are enjoined by the Court’s Order. All other provisions are unchanged or not affected by the Judge’s ruling.

## 1. **Residency Requirement**

Durational residency requirement is changed from 10 to 28 days before an election. *§6.02 (1), (2), (3), (4)—Section 10-13; §6.15 (1)—Section 14; §6.85 (2)—Section 55.*

If individual previously resided in state in the prior 27 day period, individual may vote at previous residence. *§6.10 (3)—Section 12.*

New residents; presidential voting – Upon completion of the voter registration and cancellation card, are permitted to cast a ballot for president and vice president without showing proof of residence. *§6.15 (2) (d) 1r—Section 17.*

## 2. **Straight Party Ticket**

Eliminates option for straight party voting choice except for UOCAVA voter on FWAB. *§5.37 (1)—Section 5; §5.64 (1) (ar) 1m.—Section 6; §5.91 (2)—Section 9; §7.50 (2) (a)—Section 100.*

Changes references to presidential ticket voting. *§5.64 (1ar) 1m., (b)—Sections 7, 8.*

**3. Late Registration and Absentee Voting In-Person**

Late registration changed to 5 pm or the close of business, whichever is later, on the Friday before Election Day. §6.29 (2) (a)—Section 29.

Absentee voting in-person changed to between the opening of business on the third Monday before Election Day and 5 pm or the close of business, whichever is later, on the Friday before Election Day. §6.86 (1) (b)—Section 57.

**4. Military and Overseas Voting**

Exempt from providing statutory ID when requesting absentee ballot or voting. §6.87 (1)—Section 63.

**5. Special Registration Deputies (SRD)**

G.A.B. may no longer appoint SRDs. §6.26 (2) (am), (b), (c), (cm)—Sections 24-27.

**6. Voter Registration Information**

Requires voters who register after bill becomes law to provide their former address as part of the registration form. §6.33 (1)—Section 30.

Requires G.A.B. add a statement on the registration form that falsification of voter registration information on voter registration form is a Class I felony. §6.33 (1)—Section 30.

**7. Access to SVRS data**

G.A.B. or LEO may provide confidential SVRS information to law enforcement. §6.36(1) (bm)—Section 34-35.

G.A.B. may provide confidential SVRS information to sub-unit of another state government to be used for official purposes. §6.36(1) (bn)—Section 34-35.

**8. Proof of Residence for University and College Students**

Students may use a university, college or technical college identification card with a photograph of the cardholder together with a fee payment receipt issued to the cardholder dated no earlier than 9 months before the date of the election at which the receipt is presented as proof of residence.

Students may also use a university, college or technical college identification card with a photograph of the cardholder as proof of residence if the university, college or technical college provides a certified and current list of students who reside in housing sponsored by the university, college or technical college, who are U.S. citizens, showing the current address of the students.

No address is required on the student identification card. §6.34 (3) (a) 7—Section 33m.

**9. Statutory Identification**

*Statutory ID Permitted:*

- *Wisconsin driver DoT issued identification card,*
- *Military identification card,*
- *Identification card issued by a uniform service or passport,*

- *Certificate of naturalization that was issued not earlier than 2 years before the election at which it is presented,*
- *Unexpired driving receipt issued by DoT,*
- *Identification card issued by a federally recognized Indian tribe in Wisconsin;*
- *Identification card issued by an accredited university or college in Wisconsin that contains the date of issuance, the signature of the individual to whom it was issued and contains an expiration date that is no later than 2 years after the date of the election for which it is presented. §5.02 (6m)—Section 1.*

DoT issued identification cards can be obtained for free, if the elector is a U.S. citizen who will be at least 18 on the date of the next election, and the elector requests that the card be provided without charge for purposes of voting. §343.50(5) (a) 3—Section 138.

A new religious belief photograph exception is created for DoT identification cards. §343.50(4g)—Section 136.

*Identification must be unexpired or if expired has expired after the date of the most recent general election. §5.02 (6m)—Section 1.*

*Identification must contain the name of the individual to whom the document was issued, and the name must conform to the name on the poll list, and it must contain a photograph of the individual. §5.02 (16c)—Section 2.*

#### **10. Eliminates Corroborating Witness**

A voter registering in the municipal clerk's office after the close of registration may not use a corroborator in lieu of providing his or her own proof of residence. This is effective on the day after publication. §6.29 (2) (a)—Section 29.

Removes corroborating elector from registration form. §§6.33 (2) (b), 6.55 (2) (a) 1., (b), (c)—Sections 31, 39-42.

Repeals referral of corroborators to DAs. §6.56 (5)—Section 43.

Removes corroborator from poll list. §6.79 (4)—Section 51.

#### **11. Entering Election Day Registration (EDRs) into the Statewide Voter Registration System (SVRS)**

Permits LEOs to enter EDR information into SVRS 45 days after a general election. For elections other than a general election, the LEO has up to 30 days. §6.33 (5) (a)—Section 32.

For general elections only, the Director and General Counsel is permitted upon request to extend the deadline to 60days. §6.33 (5) (a)—Section 32.

#### **12. Impact on Voter**

Voter must sign the poll book before being issued a ballot unless unable due to physical disability. §§6.36 (2) (a), 6.79 (2) (a) (am)—Sections 36, 45-46.

*Voter is required to present Statutory ID to poll worker before being given a ballot. §6.79 (2) (a)—Section 45.*

*An elector who appears to vote at a polling place and does not have statutory ID shall be offered the opportunity to vote a provisional ballot pursuant to §6.97. §6.79 (2) (d), (3) (b)—Sections 47-50.*

*An elector who votes a provisional ballot may furnish statutory ID to the election inspectors before the polls close or to the municipal clerk no later than 4 pm on the Friday following Election Day. §6.97 (3) (b)—Section 90.*

*A confidential elector is not required to provide statutory ID unless the voter does not have confidential voter card issued by LEO. §6.79 (6)—Section 52.*

*A voter who has surrendered his or her driver license is not required to provide statutory ID, but must provide the original copy of the citation or notice. §6.79 (7)—Section 53*

*Assisting individual must present assisted elector's statutory ID if ballot received at the door. §6.82 (1) (a)—Section 54.*

A voter registering at the polling place or a designated location on Election Day may not use a corroborator in lieu of providing his or her own proof of residence. §6.55 (2) (b), (c) 1—Sections 40-42.

## **11. Impact on Absentee Voter**

Absentee voting in-person changed to between the opening of business on the third Monday before Election Day and 5 p.m. or the close of business, whichever is later, on the Friday before Election Day. §6.86 (1) (b)—Section 57.

*Absentee voter is required to present statutory ID when applying for an absentee ballot by mail. §6.87 (1)—Section 63.*

*Absentee voter is required to present statutory ID when voting in-person. §6.86 (1) (ar)—Section 56.*

*Absentee voter is required to enclose a copy of statutory ID with absentee ballot when voting by mail. §6.87 (1), (4) (b) 1.—Sections 63, 68.*

*Exceptions to statutory ID for certain absentee voters:*

*An absentee elector, who has received an absentee ballot from the municipal clerk by mail for a previous election, has provided a copy of statutory ID with that previous absentee ballot and has not changed his or her name or address since providing statutory ID is not required to provide statutory ID with subsequent absentee ballots. §6.87 (4) (b) 3—Section 69.*

*This exception also applies to an indefinitely confined absentee elector. Otherwise an indefinitely confined elector may submit a statement with the indefinitely confined elector's address signed by the individual who witnesses the absentee certificate envelope verifying the indefinitely confined elector's name and address are correct. §6.87 (4) (b) 2—Section 68.*

*This exception also applies to electors residing in a qualified retirement home, qualified community-based residential facility, certified residential care apartment complex, certified or licensed adult family home where the municipal clerk does not send special voting deputies for absentee voting. Otherwise these electors may submit a statement signed by the individual who witnesses the absentee certificate envelope that contains the certification of the authorized representative of the complex, facility or home that the elector resides there; the complex, facility*

*or home is registered or certified as required by law; contains the name and address of the elector; and verifies the elector's name and address are correct. §6.87 (4) (b) 5—Section 71.*

*When absentee voting is conducted by special voting deputies in certain homes, facilities and complexes, the absentee elector may submit a statement with the absentee elector's name and address signed by the special voting deputies verifying the absentee elector's name and address are correct. The statement shall be enclosed in the certificate envelope. If the elector presents statutory ID, the special voting deputies shall make a copy and enclose it in the certificate envelope. §6.875 (6) (c) 1—Section 79.*

*An elector who is required to surrender his or her driver license 60 days or less before an election may provide the original citation or notice in lieu of statutory ID or a copy if voting absentee by mail. §6.87 (4) (b) 4—Section 70.*

*Military or overseas electors are not required to enclose a copy of statutory ID in the absentee certificate envelope. §6.87 (4) (b) 1—Section 66.*

*Confidential elector is not required to enclose a copy of statutory ID in the absentee certificate envelope. §6.87 (4) (b) 1—Section 66.*

*If statutory ID is not provided with an absentee ballot, the absentee ballot is treated as a provisional ballot pursuant to §6.97. §6.88 (3) (a)—Section 83.*

Authorizes extending absentee voting by special voting deputy to residents of “qualified adult family home” and “qualified residential care apartment complex.” §6.875 (1) (ap), (asm), (2) (d)—Sections 74, 76.

*The agent for a hospitalized elector must present the hospitalized elector's statutory ID to the municipal clerk when submitting the hospitalized elector's request for an absentee ballot. The municipal clerk must then enter their initials on the hospitalized elector's request form indicating that they agent presented the proof of identification. §6.86 (3) (a) 1—Section 59.*

If a hospitalized elector is unable to sign his or her name on the absentee application or absentee certificate envelope, the elector's agent shall attest to a statement to that effect. §6.86 (3) (a) 1—Section 59.

A hospitalized elector no longer needs to have his or her request for an absentee ballot corroborated. §6.86 (3) (a) 1—Section 59.

*A hospitalized elector who is not registered must provide proof residence along with statutory ID if the ID does not constitute proof of residence. §6.86 (3) (a) 2.—Section 60.*

### **13. Impact on Election Inspectors (Poll Workers)**

*Election inspectors shall verify the name on statutory identification presented by the elector confirms to the name on the poll list and verify the photograph reasonably resembles the voter. §6.79 (2) (a)—Section 45.*

Election inspectors shall require the voter enter his or her signature on the poll list, supplemental list or separate list. §6.79 (2) (a)—Section 45.

Note exceptions provided in § 6.36 (2) (a), 6.79 (2) (am)—Sections 36, 46.

Election inspectors shall verify the name and address on proof of residence offered by first-time elector are the same as on the poll list. §6.79 (2) (d)—Section 47.

*If statutory ID is not presented or if the election inspectors are unable to verify the name or picture the elector may not vote unless entitled to a provisional ballot. §6.79 (3) (b)—Sections 48-50.*

*Election inspectors shall offer opportunity to vote a provisional ballot to elector who does not have statutory ID. If elector wishes to vote, inspectors shall provide envelope with voter serial number and notation “Ballot under s.6.97” and require voter to complete written affirmation on envelope. Inspectors shall mark voter serial number and notation “s. 6.97” on back of ballot and make notation “voter required to provide ID but did not do so” on the poll list next to voter’s name. Inspectors shall provide written information on provisional ballot process to voter and notify municipal clerk of voter’s name, address and serial number. §6.97 (1)—Section 88.*

*If provisional voter returns with statutory ID before the polls close, election inspectors shall remove ballot from provisional envelope, note on the poll list “provisional ballot withdrawn,” deposit ballot in ballot box and notify municipal clerk. §6.97 (3) (a)—Section 91.*

*Election inspectors shall treat an absentee ballot as a provisional ballot if the elector is required to provide statutory ID and no copy of the required ID is enclosed or the inspectors are unable to verify the name on the document. §§6.88 (3) (a), 6.97 (2)—Sections 84, 89.*

*Election inspectors may permit confidential electors and electors who have surrendered their driver license to vote without statutory ID. §6.79 (3) (b), (6), (7)—Sections 83-84.*

*Election inspectors shall process ballot of elector allowed to vote with original citation per §6.79 (7), by marking voter serial number and notation “s. 6.965” on back of ballot and making notation “s. 6.965” on the poll list next to voter’s name. §6.965—Section 86.*

**14. Impact on Board of Absentee Ballot Canvassers**

*Absentee Ballot Canvassers shall treat an absentee ballot as a provisional ballot if the elector is required to provide statutory ID and no copy of the required ID is enclosed or the canvassers are unable to verify the name on the document. §7.52 (3) (a), 6.97 (2)—Sections 101, 89.*

**15. Impact on Municipal Clerk**

*Presidential-only electors (new Wisconsin residents) are required to provide statutory ID when voting in clerk’s office. §6.15 (2) (bm)—Section 16.*

*Municipal clerk shall note on absentee certificate envelope if statutory ID provided or not required. §6.87 (2)—Section 64.*

*Municipal clerk shall verify the name of presidential-only electors on the statutory ID matches the name on the application form and the photograph reasonably resembles the applicant. §6.15 (2) (bm)—Section 16.*

*Municipal clerk shall discontinue sending automatic absentee ballot to absentee voter who moves from municipality or fails to return absentee ballot. §6.86 (2m)—Section 58.*

*Municipal clerk shall send absentee ballot electronically if requested by military elector or an overseas elector. §6.87 (3) (d)—Section 65 as Modified by Act 75, Section 50.*

*Municipal clerk shall verify the name of a hospitalized voter on the statutory ID matches the name on the application form and the photograph reasonably resembles the applicant. §6.86 (3) (c)—Section 61.*

Municipal clerk shall notify Boards of Canvassers in writing of outstanding provisional ballots, then determine if provisional voter eligible to vote in reporting unit, make record of procedure used to determine validity of each provisional ballot and notify appropriate board of canvassers of any eligible ballot. §6.97 (3) (b), (c)—Sections 90, 91.

Poll lists may be destroyed 22 months after any election rather than 2 years after all elections except fall elections which were 4 years. §7.23 (1) (e)—Section 99.

**16. Impact on Government Accountability Board**

The Voter Fraud poster must be revised to remove reference to corroborator. §5.35 (6) (a) 2—Sections 3, 106-108.

***Instructions for voters at the polling place must be revised to reflect statutory ID requirement. §5.35 (6) (a) 4a—Section 4.***

Voter registration form must be revised to add requirement that voter list former address change, 10 day residence to 28 days, add penalty provision and remove references to corroborator. §6.33 (1), (2), 6.55(2) (a) 1, (b), (c)—Sections 30-31 39-42.

Voter registration form must now be designed to obtain location of previous address immediately before moving to the current residence. § 6.30 (1)—Section 30.

G.A.B. must develop a supplemental poll list for electronic poll books to permit voter signatures – or the word “exempt” if the voter is exempt from the signature requirement. §6.79 (1m)—Section 44.

G.A.B. must revise poll list to permit voter signatures and develop a rule for orientation of signing so poll workers do not have to flip the poll list. This is effective on the day after publication. §6.36 (2) (a)—Section 36.

G.A.B. must revise poll list retention to reflect lists may be destroyed 22 months after any election rather than 2 years after all elections except fall elections which were 4 years. §7.23 (1) (e)—Section 99.

***Absentee ballot application forms need to be revised to reflect changes with respect to statutory ID and hospitalized electors. §§6.869, 6.87(1)—Sections 62-63.***

***Absentee certificate envelope must be revised to accommodate indication of providing statutory ID or exemption. §6.87 (2)—Section 64.***

***Absentee voting instructions must be revised to reflect statutory ID requirement and exceptions. §6.869—Section 62.***

Application for presidential-only ballot must be revised. §6.18—Section 19.

The informational materials for absentee voting in certain homes, facilities and complexes must be revised. §6.875—Sections 73-82.

***Written notice to be distributed to provisional voters must be revised to reflect statutory ID requirement. § 7.08 (8)—Section 93.***

Type B Notice information needs to be changed to reflect straight party voting, ***statutory ID requirement and exceptions.*** §§10.02 (3) (a) and 10.02(3)(b)1.—Sections 103, 104-105.

*The G.A.B. shall engage in outreach to identify and contact groups of electors who may need assistance in obtaining or renewing statutory ID and provide assistance in obtaining and renewing statutory ID. §7.08 (12)—Section 95.*

*The G.A.B. shall conduct a public informational campaign for the purpose of informing prospective voters of the statutory ID requirement and exceptions. Section 144*

Poll lists for all elections may be destroyed 22 months after election. §7.23 (1) (e)—Section 99.